

**USCIB RESPONSE REGARDING E-COMMERCE, TELECOMMUNICATIONS AND
COMPUTER AND RELATED SERVICES TO THE USTR REQUEST FOR COMMENTS
ON OBJECTIVES FOR WTO SERVICES NEGOTIATIONS**

05/12/00

The Office of the United States Trade Representative has requested comments on general U.S. negotiating objectives as well as country and item-specific export priorities for agriculture and services for use by the U.S. government in formulating U.S. positions and objectives for U.S. participation in the WTO negotiations. The USCIB would like to offer the views of our members in the following areas: Electronic Commerce, Telecommunications and Computer and Related Services.

ELECTRONIC COMMERCE

USCIB members share a common interest in exploring with the U.S. government the ways that the WTO can be used to promote the development of e-commerce. Our mutual exploration exercise should include efforts: (1) to promote the development of the infrastructure that is necessary to conduct e-commerce; (2) to promote the development of trade in goods and services via e-commerce; and (3) to prevent the establishment of new barriers to e-commerce during and after the Services 2000 negotiations.

Given that e-commerce is a new and dynamic medium to deliver goods and services, the exploratory process should proceed in a deliberate and comprehensive manner. In that regard, USCIB members view the following comments as part of an ongoing dialogue among industry, government, and other stakeholders that will take place formally and informally in the coming months before the U.S. government submits any formal negotiating proposals on electronic commerce in the WTO.

(1) To promote the development of e-commerce infrastructure, USCIB members urge the U.S. government to:

- redouble its efforts to conclude the ITA II agreement; and
- pursue further liberalization in the Services 2000 negotiations of a cluster of services associated with the infrastructure needed for a business-to-business and business-to-consumer e-commerce value chain, including, for example, computer, telecommunications, distribution, advertising, financial, and delivery services.

Basic and value added telecommunications services and financial services are particularly critical components of an e-commerce value chain infrastructure. In both sectors, WTO members have made significant commitments, including sector-specific agreements (GATS Telecom Annex, GATS Basic Telecom Agreement, and GATS Financial Services Agreement), that serve as a basic and necessary foundation for all e-commerce activity around the world. In the current round of GATS negotiations, all WTO members should strive for broader and deeper commitments in all subsectors of telecommunications and financial services in order to promote the development of the infrastructure needed for e-commerce specifically and global trade generally.

(2) To promote the development of trade via e-commerce, USCIB members urge the U.S. government to:

- continue to pursue formal recognition in the WTO that current commitments under the WTO Agreements including GATT, GATS and TRIPS, apply to electronic commerce.

- pursue further liberalization in the Services 2000 negotiations of the services that can be delivered via e-commerce, including, for example, consultancy, professional, education, and energy services.

(3) To prevent the development of new barriers to e-commerce pending the completion of negotiations, USCIB members urge the U.S. government to:

- pursue a standstill commitment not to impose new restrictions that could adversely affect e-commerce during the course of the negotiations;
- pursue adoption of the WTO 1998-99 work program on e-commerce that resulted in a number of recommendations, including, for example the need to avoid unnecessary barriers to e-commerce.
- pursue extension of the practice of not imposing customs duties on electronic transmissions; and
- pursue the continuation of the work program on electronic commerce within the WTO.

The traditional role of the WTO – and its predecessor, the GATT – has been to reduce and eliminate barriers to trade. This is a role that the WTO can play for e-commerce by providing a forum in which Members can negotiate new commitments to reduce barriers to e-commerce, as described in (1) and (2) above, and enforce existing commitments that protect e-commerce through the WTO Dispute Settlement Mechanism.

But there is a new role for the WTO to play with respect to e-commerce: to prevent the development of barriers to e-commerce that currently do not exist. It is very important that the WTO begin playing this role now -- at the outset of the Services 2000 negotiations and prior to the launching of a new round of negotiations for all WTO agreements, as described in (3) above.

TELECOMMUNICATIONS

USCIB worked closely with the U.S. Government during the Uruguay Round in identifying objectives for commitments for value-added telecommunications services and in developing the GATS Telecommunications Annex

During the sector-specific negotiations on basic telecommunications, USCIB provided significant input on the critical mass of countries needed to successfully conclude the negotiations, the development of the Reference Paper on regulatory principles, and on the need for clarification in the scheduling of commitments on basic telecommunications. USCIB fully supported and appreciated the efforts of the U.S. negotiating team in bringing these negotiations to a successful conclusion in 1997. USCIB members believe that liberalization of telecommunications services and facilities must continue to be a top priority for the United States services negotiating objectives because of the dual role that telecommunications plays as a distinct sector and as the necessary infrastructure for the delivery or transport of other goods and services, including via the Internet and e-commerce. Opening markets for telecommunications also benefits consumers worldwide by bringing increased choices and lower prices.

Basic Telecommunications

Implementation of Existing Commitments

USCIB submitted comments to USTR in December 1999 in response to a Federal Register request asking for identification of significant barriers to U.S. exports of services for inclusion in the National Trade

Estimate Report on Foreign Trade Barriers. We continue to be concerned that several countries are not implementing their existing commitments and that some countries have not yet accepted the Fourth Protocol: Brazil, Philippines, Dominica, Guatemala, and Papua New Guinea. As the new negotiations commence, consideration should be given to the extent to which countries have met their current obligations with respect to their market access and national treatment commitments and implementation of the Reference Paper on pro-competitive regulatory principles. In our December comments, we identified specific implementation concerns regarding the commitments of 21 countries on basic telecommunications.

Objectives for the Services 2000 Negotiations

For the new services round, USCIB member companies would like to see improvements in existing basic telecom commitments and as well as first-time commitments from WTO Members that have not made telecom commitments in the past. . USCIB proposes the following general negotiating objectives:

Broader market access commitments

Several countries committed to a narrow opening of their markets and did not include all domestic and international telecommunications services on a technology neutral basis. Some countries, for example, guaranteed market access for private voice networks, but not for public voice, and some committed to all voice but only using wireless technology with terrestrial wireline and satellite delivery excluded or subject to a delayed opening. USCIB has long advocated "quality" commitments including market access for facilities-based and private networks as well as resale. Countries must commit to full service market access. This is particularly important in light of the convergence of services made possible by advanced digital technology.

Timelier implementation dates

Countries with commitments for market access that are not effective until post- 2001 should move up their implementation dates. Although some countries, recognizing the benefits of competition and open markets, have opened their markets prior to the dates in their schedules, a number of key markets for U.S. companies have not scheduled commitments until after 2002 and have no plans to open their markets sooner.

Commitments to the Reference Paper on Regulatory Principles

For companies to compete fairly and effectively, countries should be urged to commit to the Reference Paper for basic telecommunications services in its entirety.

Reduced or elimination of foreign ownership restrictions

Significant progress in decreasing foreign ownership restrictions was obtained during the Basic Telecommunications negotiations. In many countries, however, foreign ownership restrictions continue to apply for some services or all services. USCIB is assessing priorities for this round for further reducing foreign ownership restrictions.

Commitments from additional countries

Of the 136 WTO members, 80 governments have made some telecommunications market access commitments covering either basic or value-added services. USCIB is in the process of identifying additional priority countries.

Value Added Telecommunications:

A number of countries made commitments as part of the Uruguay Round to open their markets for the provision of value added telecommunications. U.S. companies benefit significantly from having market access for value added services. For example, such access facilitates on-line information and data processing services, as well as electronic mail and voice mail. USCIB seeks and advocates further liberalization in the provision of value added services in the Services 2000 Round. Accordingly, USCIB members urge the U.S. to pursue negotiating objectives for value added telecommunications services that are very similar to those listed above for basic telecommunications, namely:

- Broader market access commitments that cover the full range of value added services;
- Timlier implementation dates;
- Reduction or elimination of foreign ownership restrictions; and
- Commitments from additional countries.

COMPUTER AND RELATED SERVICES

Business-to-Business electronic commerce constitutes the large majority of e-commerce today and most likely for the foreseeable future (estimates say business-to-business e-commerce constitutes 80-85% of total e-commerce). There is no question that business-to-business electronic commerce is redefining the way industries conduct their business. The transition from paper-based to electronic transactions and physical delivery to electronic delivery of products and services is resulting in significant efficiency and productivity gains that ultimately benefit consumers.

Given the significant impact that computer and related services play in ensuring the continued growth of electronic commerce at the business and consumer levels, and its resulting benefits on society and the global economy, USCIB members urge the U.S. Government to encourage WTO member governments to schedule meaningful market-opening commitments in computer and related services. At a minimum meaningful market-opening commitments would include:

- Full liberalization no later than December 31, 2003; and
- Removal of foreign ownership restrictions.

Thank you for the opportunity to share our views with you and we look forward to continuing to work with you during the Services 2000 Negotiations.

Please do not hesitate to contact me if you would like to discuss our comments in more detail.